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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

PHYLLIS J. KING,

Plaintiff,

v.

FEDERAL BUREAU OF
INVESTIGATION,

Defendant.

NO. CV 08-1919 BZ

**[PROPOSED] ORDER GRANTING
DEFENDANT'S MOTION TO DISMISS**

This matter having come before the Court on May 28, 2008, and good cause appearing, it is hereby ordered that plaintiff's claim against the Federal Bureau of Investigation ("FBI") is dismissed because the FBI is not the proper defendant in a case against a federal agency under the Federal Tort Claims Act, 28 U.S.C. § 2670 et seq. The United States is the proper defendant.

Moreover, Plaintiff's claim against the United States is dismissed without prejudice for lack of subject matter jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(1). Specifically, Plaintiff has failed to file an administrative tort claim as required by the Federal Tort Claims Act. See 28 U.S.C. § 2675(a).

IT IS SO ORDERED that the case is dismissed without prejudice.

DATED: April __, 2008

BERNARD ZIMMERMAN
United States Magistrate Judge

[Proposed] Order
King v. FBI